IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 1061 of 1998

Between:

1 Smt. Anusuya Bai, W/o. Bapu Rao,
R/o. Masala (B) Village, Mandal Bela, District Adilabad.
2 Devidas, S/o. Waman Rao,
R/o. Masala (B) Village, Mandal Bela, District Adilabad.

..... PETITIONERS

AND

1 Special Deputy Collector (T.W)
Utnoor, District Adilabad.
2 Mandal Revenue Officer, Mandal bela,
District Adilabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order or direction more particularly one in the nature of Writ of Mandamus declaring the Memo of 1st respondent in No. TWA-2/789/96, dated 27.12.97 along with Form-F issued Rule 7(4) as illegal arbitrary and it Voilates the principles of Natural Justice. Consequently direct the respondents not to evict the petitioners from the Sy. No. 13, ext. 9.10gts. situated at Masala (B) Village, Bela Mandal, District Adilabad.

Counsel for the Petitioners: MR.N.ASHOKUMAR

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following :

ORDER:

The grievance of the petitioner No.1 is that she is the owner and possessor of an extent of Ac.5.20 gts and Ac.9.10 gts of land in S.Nos.2 and 13 respectively situated at Masala (B) Village of Bela Mandal, Adilabad District and she is shown as the owner and possessor in the revenue records also. When a show cause notice was issued to the Petitioner No.1 by the 1st respondent-Special Deputy Collector, calling for her explanation under the provisions of Andhra Pradesh Scheduled Area Land Transfer Regulations 1959, she appeared before the 1st respondent and produced the documentary evidence to establish her ownership and possession. Pursuant to the said explanation, the 1st respondent who was convinced has dropped the proceedings by an order dated 30-04-1997. Subsequently, the son of the petitioner died and the lands were cultivated by the petitioner No.1 and her daughter-in-law, with the assistance of her daughter-in-law's brother by name Devidas i.e., the 2nd petitioner. Due to inadvertence, the name of Devidas was subsequently entered in the revenue records as owner and possessor and pursuant thereto, the 1st respondent treating it as an illegal transfer, passed an order of eviction dated 27-12-1997. The grievance of the petitioner is that it is only due to inadvertence that the name of Devidas, brother of her daughter-in-law was entered in the revenue records and actually she is the owner and possessor of the said lands and thus approached this Court questioning the said order of eviction dated 27-12-1997.

This Court initially granted interim direction not to dispossess the 1st petitioner by its order dated 12-01-1998 and subsequently, the said order was modified on 15-12-

1998.

The respondents filed a detailed counter stating that as against the said orders an appeal lies to the Agent to the Government i.e., Collector and without exhausting the alternative remedy, the petitioners approached this Court and filed the present writ petition.

In view of the availability of alternative remedy, I deem it appropriate to direct the petitioners to approach the Agent to the Government i.e., Collector and file an appeal as contemplated under law. If any appeal is preferred by the petitioners, such appeal shall be entertained and disposed of at the earliest and during the pendency of the appeal, the 1st petitioner shall not be evicted from the lands in question.

Accordingly, the writ petition is disposed of.

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07-12-2004

vs

To

1 The Special Deputy Collector (T.W)
Utnoor, District Adilabad.
2 The Mandal Revenue Officer, Mandal bela,
District Adilabad.

3. Two CCs to G.P. for Social Welfare, High Court Buildings,

Hyderabad. (OUT)

4. Two C.D. copies.